IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA

APPEAL UNDER E.S.I. NO. 4 OF 2006

Regional Director,
E.S.I. Corporation,
46 Defence Colony,
Porvorim-Goa. .... Appellant

Versus

Farmacia Ananta,
Opposite Panaji Municipal
Council Building,
Rua de Malaca,
Panaji-Goa. .... Respondent

Mrs. A. Agni with Mr. M.S. Prabhudesai, Advocate for the Appellant.

Mr. R.G. Ramani, Advocate for the Respondent.

CORAM : **P.V. KAKADE, J.**

DATE : **23rd NOVEMBER, 2006**

ORAL JUDGMENT :

Heard both sides. Rule. Rule made returnable forthwith.

2. This is an appeal preferred by the Regional Director, E.S.I. Corporation against the order passed by the Presiding Officer, E.S.I.C., Panaji allowing the application of the present respondent under Section 75

and 77 of the E.S.I. Act (hereinafter called as 'the said Act').

3. After hearing both the parties for sometime, it is found that the evidence laid on behalf of the present appellant is not adequate for the purpose of coming to any concrete conclusion by the lower Court. Moreover, it appears that the lower Court, as in so many other matters, is not aware of the circular dated 16/11/1981 no. P-11/14/41/79-Ins. IV, Instruction no.17 of 1981, which has got bearing over the issues involved, giving certain concessions to the establishments covered under the said Act. In view of this position, I am of the view that the matter is required to be remanded for adjudication afresh.

4. Hence, the impugned order passed by the E.S.I. Court, Panaji is hereby set aside. The matter is remanded to the E.S.I. Court for adjudication afresh. The E.S.I. Court shall give opportunity to both the sides to deal with the evidence on record, especially in the light of Apex Court rulings in the case of ***Rajkamal Transport & Anr.*** **Versus** ***Employees' State Insurance Corporation, Hyderabad*** **(1996) 9 SCC 644** as well as ***E.I.D. Parry (India) Ltd., Vijaywada*** **Versus** ***Employees State Insurance Corporation & Anr.*** **(2002) II CLR 349**, besides giving due consideration

to the circular noted above. The adjudication to be completed within 6 months from the date of the receipt of the writ of this Court.

5. With these directions, the appeal stands disposed of with no order as to costs.

P.V. KAKADE, J.

NH